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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,579	12/20/2000	Vahid Saadat	VAA-004	1598

1473 7590 03/28/2002
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EXAMINER

IZAGUIRRE, ISMAEL

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 03/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/746,579

Applicant(s)
V. SAADAT

Examiner
Ismael Izaguirre

Art Unit
3765



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Dec 20, 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 and 21 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-8, 10, 18, and 19 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 9, and 11-17 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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DETAILED ACTION

CLAIMS

Summary

Claims 1,18 and 20 are the independent claims under consideration in this Office Action.

Claims 2-17,19 and 21 are the dependent claims under consideration in this Office Action.

Claim Rejections - 35 U.S.C. § 112

Claim 7 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to claim 7, lines 1-2, the words "the therapeutic growth factor" lack a proper antecedent basis.

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1,2,8 and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by Walker (4,259,959).

Walker teaches an apparatus for closing a wound. Walker teaches an elongated substrate (figure 4, for example) 2 and a multiplicity of barbs emanating from a top and bottom surface of the substrate for engaging a wound. The substrate is placed on the wound and the edges of the wound are squeezed together such that the substrate occupies the desired position.

Claims 1,5-7,10,18 and 19 are rejected under 35 U.S.C. § 102(b) as being anticipated by Wholey (5,383,897).

Wholey teaches an apparatus for closing a wound. Wholey teaches an elongated substrate 2 and a multiplicity of barbs 4 emanating from a surface. The barbs and substrate being coated with a therapeutic substance (column 4, line 4-10). The substrate capable of formed into a tube for insertion into or onto a vessel.

ALLOWABLE SUBJECT MATTER

Claims 20 and 21 are allowable over the prior art of record.

Claims 3,4,9 and 11-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

PERTINENT CITATIONS

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Linden et al. Illustrate an occlusion sealer including barbs on a surface thereof.

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Whittman illustrates a substrate for closing a wound with barbs. Brotz illustrates an arrangement with barbs for closing a wound. Sullivan Jr. illustrates barbed clips on a substrate.

INQUIRIES

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Ismael Izaguirre located in CP2-4B18 and whose telephone number is (703) 308-0892. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.



Ismael Izaguirre
Primary Examiner
Art Unit 3765

II

March 25, 2002

**Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01**

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in ABANDONMENT of the application.